

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

KELLY SCHULTZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NATIONS INFO CORP, a California
corporation

Defendant.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

Plaintiff Kelly Schultz (“Schultz” or “Plaintiff”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Nations Info Corp. (“Nations Info” or “Defendant”) to stop Nations Info from violating the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). Nations Info has sent unsolicited, autodialed text messages to consumers, including to consumers like Plaintiff Schultz who have registered their phone numbers on the national Do Not Call registry (“DNC”). Plaintiff, on behalf of herself and all others, seeks injunctive and monetary relief for all persons similarly injured by Nations Info’s conduct. Plaintiff, for her Complaint, alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

INTRODUCTION

1. Nations Info is a provider of real estate and financial information services to consumers.¹

¹ https://www.glassdoor.com/Job/westlake-village-devops-engineer-jobs-SRCH_IL.0,16_IC1146990_KO17,32.htm?rdserp=true&jl=3224500168&guid=0000016a92840bcca4578957783a08f7&pos=108&src=GD_JOB_AD&srs=EI_JOBS&s=21&ao=8118

2. Nations Info operates RentBeforeOwning, a paid-membership platform that connects consumers with rent-to-own properties together with access to property financing:



Knowledge and tools to identify homes to rent and purchase with non- traditional financing options

2

3. In an effort to market and expand its RentBeforeOwning platform, Nations Info engages in a number of marketing initiatives including, and as relevant to this case, the use of affiliates and text message telemarketing.

4. Nations Info, either directly or through its affiliates, sends text message solicitations without first obtaining any consent from the consumer, let alone prior express consent as required by the TCPA.

5. To make matters worse, Nations Info sends these solicitation text messages to consumers who registered their phone numbers on the DNC registry for the specific purpose of avoiding these types of unwanted marketing solicitations.

6. To avoid suspicion of its illegal text message telemarketing, Nations Info has created a series of different websites to solicit memberships while at the same time hiding its identity in an attempt to shield itself of liability for violating the TCPA.

7. In Plaintiff's case, Nations Info sent at least two autodialed text messages to her cellular phone without having her consent and despite the fact that Plaintiff had registered her phone number on the DNC more than 30 days prior to receiving the text messages.

8. In response to these text messages, Plaintiff files this class action lawsuit seeking injunctive relief requiring Nations Info to cease sending unsolicited, autodialed text messages to

² <http://www.nationsinfocorp.com/>

1 consumers' cellular telephone numbers, and to other phone numbers registered on the DNC, as
2 well as an award of statutory damages to the members of the Classes.

3 **PARTIES**

4 9. Plaintiff Schultz is a resident of Zimmerman, Minnesota, which is located in
5 Shurburne County.

6 10. Defendant Nations Info is a Goleta, California corporation. Nations Info does
7 business throughout this District, the State of California, and throughout the United States.

8 **JURISDICTION AND VENUE**

9 11. This Court has federal question subject matter jurisdiction over this action under
10 28 U.S.C. § 1331, as the action arises under the TCPA, which is a federal statute. The Court also
11 has jurisdiction under the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d), *et seq.*
12 because there are over 100 members of the alleged classes, there is minimal diversity, and there
13 is over \$5,000,000 at issue when the claims of the Class are aggregated. Further, none of the
14 exceptions to CAFA apply.

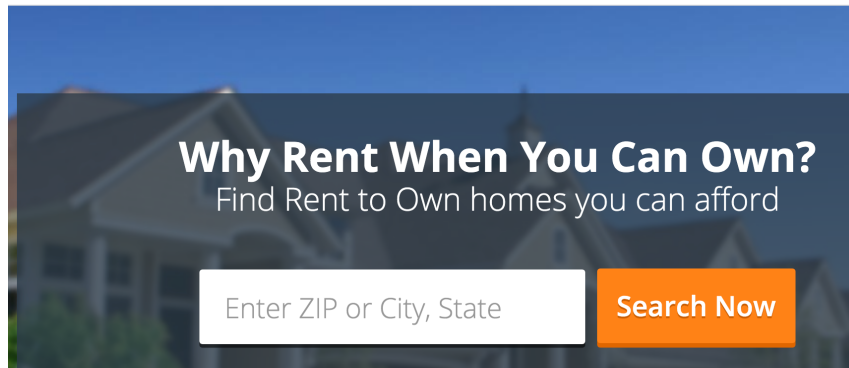
15 12. This Court has personal jurisdiction over Defendant and venue is proper in this
16 District under 28 U.S.C. § 1391(b) because Defendant is incorporated in this State and maintains
17 its principal place of business in this District, and because the wrongful conduct giving rise to
18 this case emanated from Defendant from within this District.

19 **COMMON ALLEGATIONS**

20 **Nations Info Markets its Products by Placing, or Having Placed** 21 **On its Behalf Unsolicited Text Messages**

22 13. Texts sent by or on behalf of Nations Info are solicitations for Nations Info's rent-
23 to-own membership services.

24 14. Nations Info's rent-to-own pages, such as RentBeforeOwning.com, begin by
25 offering consumers a search option to locate rent-to-own homes:
26
27



15. Nations Info owns manages RentBeforeOwning.com. On the RentBeforeOwning.com website, Henry Kim is referenced as the Affiliate Manager.⁴ Kim is the Chief Marketing Manager for Nations Info.⁵ Additionally, both RentBeforeOwning.com and Nations Info are located at the same physical address:

Additional Contact

You can also contact us at
600 Pine Ave Goleta, CA 93117

Santa Barbara Primary

600 Pine Ave, Goleta, CA 93111, US

[Get directions](#)

16. When a consumer clicks on “Search Now”, from the main page on RentBeforeOwning.com, they then proceed to complete a series of survey questions regarding the type of property they would like to rent. The option is then presented for the consumer to save their profile and receive a “FREE Debt Relief Analysis”:

³ <https://www.rentbeforeowning.com/>

⁴ <https://www.rentbeforeowning.com/affiliates.html>

⁵ <http://www.nationsinfocorp.com>

⁶ <https://www.rentbeforeowning.com/contact-us.html>

⁷ <https://www.linkedin.com/company/nations-info-corp/about/>



17. And when a consumer clicks on “View Homes”, they are given the option to sign-up for a 7-day membership trial:

Your Trial Price: Just \$1.00

Credit Type: Select Card ▼

Card Number: [Input Field]

Exp Date: Month ▼ Year ▼

CCV #: [Input Field] [what is this?](#)

Terms of Use and Pricing Information
 By clicking the button below, you agree to the [Terms of Use](#) and to be enrolled in the 7 day trial for the amount of \$1.00. Your account will be activated immediately. You may cancel at any time via our toll-free telephone line at (888) 586-0824. After the trial expires on May 14, 2019, your enrollment will automatically continue and your account will be charged \$49.95 per month until you cancel. If you cancel your account during the trial, there will be NO FURTHER CHARGES. For full subscription terms, please see the Terms of Use.

I agree and accept. VIEW HOMES!

18. As per the image above, the cost for the trial membership is \$1. If the consumer does not cancel the membership within 7 days, they are charged \$49.95 per month until the membership is cancelled.

19. The unsolicited text messages sent to Plaintiff Schultz and the members of the proposed classes advertised these same or similar membership subscription services.

⁸ *id*

⁹ <https://www.rentbeforeowning.com/signup.html>

Defendant Sends Text Messages Directly and/or Hires Affiliates to Send Text Messages Directing Consumers to Defendant's Websites

20. Nations Info also operates an affiliate program that it advertises on its website landing pages for rent-to-own properties:

Do you have an affiliate program?

Yes! We have a partner program with industry-leading payout. For more information, please call our affiliate manager, Henry Kim at 818-879-1538 or contact us [here](#).

[Contact Us](#) | [Privacy Policy](#) | [Terms of Use](#)

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21. The Federal Communication Commission (FCC) has provided instructions stating that sellers such as Nations Info may not avoid liability under the TCPA simply by outsourcing their telemarketing:

[A]llowing the seller to avoid potential liability by outsourcing its telemarketing activities to unsupervised third parties would leave consumers in many cases without an effective remedy for telemarketing intrusions. This would particularly be so if the telemarketers were judgment proof, unidentifiable, or located outside the United States, as is often the case. Even where third-party telemarketers are identifiable, solvent, and amenable to judgment limiting liability to the telemarketer that physically places the call would make enforcement in many cases substantially more expensive and less efficient, since consumers (or law enforcement agencies) would be required to sue each marketer separately in order to obtain effective relief. As the FTC notes, because “[s]ellers may have thousands of ‘independent’ marketers, suing one or a few of them is unlikely to make a substantive difference for consumer privacy.”

In re Joint Petition Filed by DISH Network, LLC et al. for Declaratory Ruling Concerning the TCPA Rules, 28 FCC Rcd. 6574, at ¶ 37 (2013) (“FCC 2013 Ruling”) (citations omitted).

22. In addition to the above statement from the FCC, Nations Info knowingly benefits from all of the marketing that is done on its behalf and has ratified any telemarketing.

Plaintiff Received Unsolicited Autodialed Text Messages to Her Cell Phone Despite Being on the DNC List

23. On March 25, 2017, Plaintiff Schultz registered her cellular phone number on the DNC to avoid receiving unwanted phone and text solicitations.

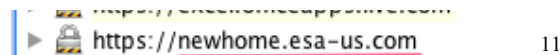
¹⁰ <https://www.rentbeforeowning.com/contact-us.html>

24. Her cellular phone number is not currently associated with a business and is for personal use.

25. On February 21, 2019 at 3:30 PM, Schultz received an unsolicited autodialed text message from, or on behalf of, Defendant on her cellular phone from 402-922-9644:



26. Clicking on dozzz.xyz/hhb7zb leads first to omgxuta.com, which is believed to be a link tracking service, which then reroutes to newhome.esa-us.com:



27. At the newhome.esa-us.com domain, the consumer is provided with a short survey regarding rent-to-own properties. When the survey is completed, the consumer is routed directly to ViewForeclosureHomes.com.

Connection #1 – Connecting ViewForeclosureHomes.com to Nations Info

28. The address in the privacy policy for ViewForeclosureHomes.com is:

ViewForeclosureHomes.com
PO Box 515381 #50291 Los Angeles, CA 90051
homes@viewforeclosurehomes.com

¹¹ Screenshot from Charles, a link tracking program

¹² <https://www.viewforeclosurehomes.com/privacy.php>

29. The PO Box address shown above is the same address used on the website ViewRentToOwnHomes.com. Both ViewForeclosureHomes.com and ViewRentToOwnHomes.com are website clones of each other, even using identical logos:



13

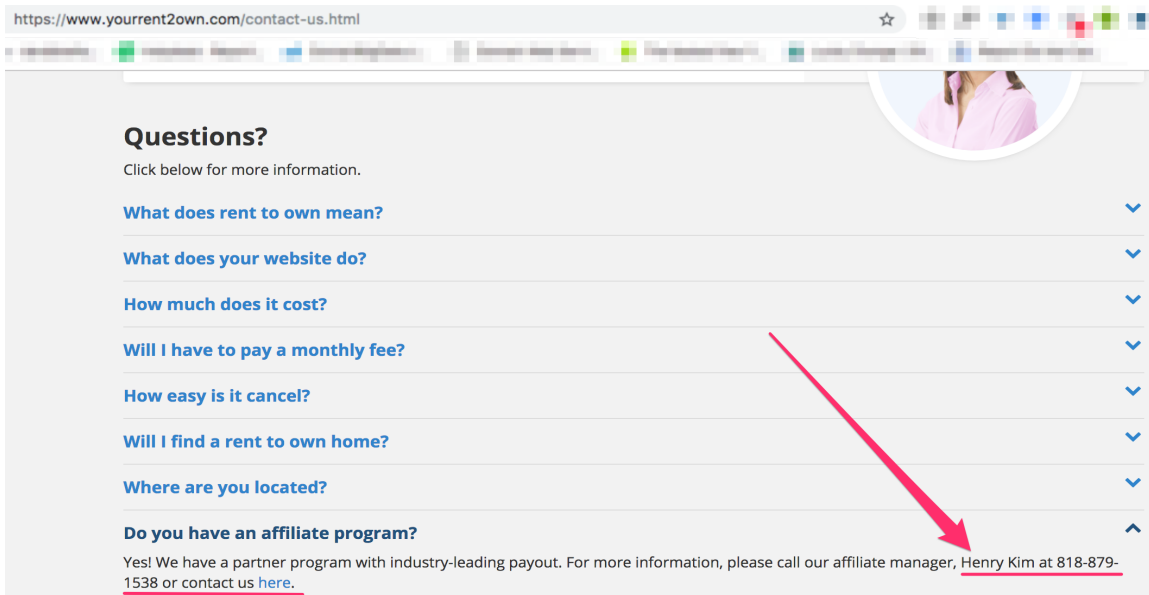


14

30. Both sites also offer the identical membership program detailed above, with a 7-day free trial, followed by a monthly membership cost.

31. On the ViewRentToOwnHomes.com website, the contact page shows that the contact email is support@yourrent2own.com.

32. The website YourRent2Own.com refers to Nations Info's affiliate program:



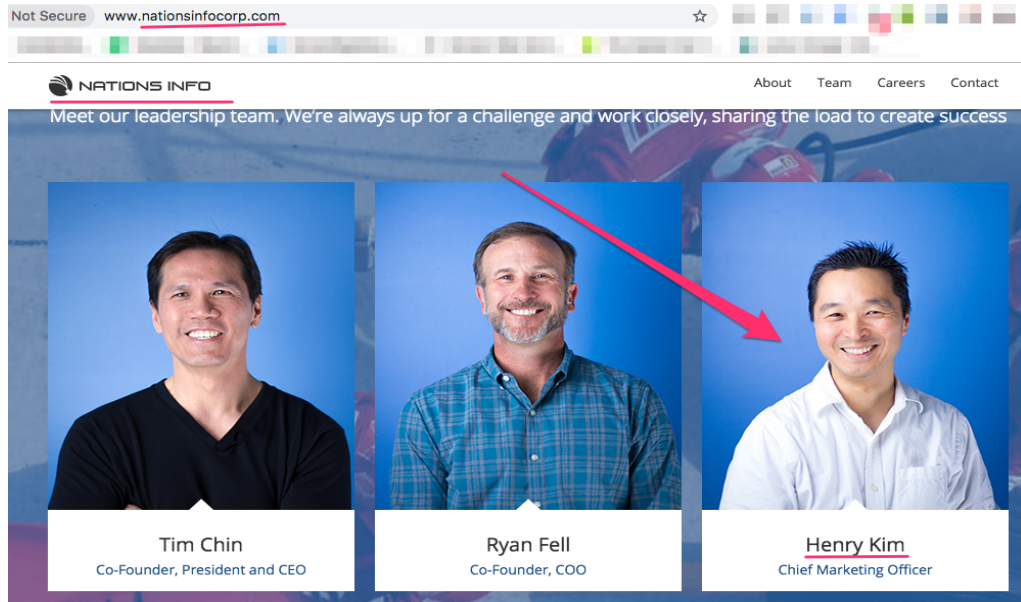
15

¹³ https://www.viewrenttoownhomes.com/contact_us.php

¹⁴ https://www.viewforeclosurehomes.com/contact_us.php

¹⁵ <https://www.yourrent2own.com/contact-us.html>

33. Henry Kim, the affiliate manager referenced in the above image, is the Chief Marketing Officer for Nations Info:



Connection #2 – Connecting ViewForeclosureHomes.com to Nations Info

34. Another link showing that Nations Info is responsible for, or benefits from the aforementioned text message that Plaintiff received is the Free Credit Score link. On the website ViewForeclosureHomes.com, there is a link for a "FREE Credit Score":



35. Clicking on the "Free Credit Score" link brings up two websites, both of which are clones of RentBeforeOwning.com, a website owned by Nations Info:



¹⁶ <http://www.nationsinfocorp.com>

¹⁷ <https://www.viewforeclosurehomes.com/>

¹⁸ Screenshot from Charles, a link tracking program

As per the image above, the “Free Credit Score” link brings up UltraForeclosures.com and ForeclosureFortunes.net.

36. The Terms and Conditions for UltraForeclosures.com and Foreclosurefortunes.com both reference getting help regarding text messages by texting “HELP” to shortcode 96863:

TEXT MESSAGING HELP:

To obtain help you may:

Text “HELP ” to 96863 to obtain help on your mobile phone.

Email us at: support@ultraforeclosures.com

Call us at: (866) 383-8872 M-F 6am-6pm Pacific Time

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TEXT MESSAGING HELP:

To obtain help you may:Text “HELP ” to 96863 or to 76684 to obtain help on your mobile phone.

Email us at: support@foreclosurefortunes.net

Call us at: (855) 870-9261 M-F 6am-6pm Pacific Time

20

37. Shortcode 96863 is a shortcode owned and managed by Nations Info²¹ as is seen on the website RentBeforeOwning.com:

TEXT MESSAGING HELP:

To obtain help you may:

Text HELP to 96863 to obtain help on your mobile phone.

Email us at: support@rentbeforeowning.com

Call us at: (888) 250-5563 M-F 6am-6pm Pacific Time

22

Connection #3 – Connecting ViewForeclosureHomes.com to Nations Info

38. When a consumer clicks on “FREE Credit Score” on the ViewForeclosureHomes.com website, the consumer is forwarded to UltraForeclosures.com. As per the above, UltraForeclosures.com uses Shortcode 96863, which is owned by Nations Corp.,

¹⁹ <https://www.ultraforeclosures.com/terms-of-use.html>

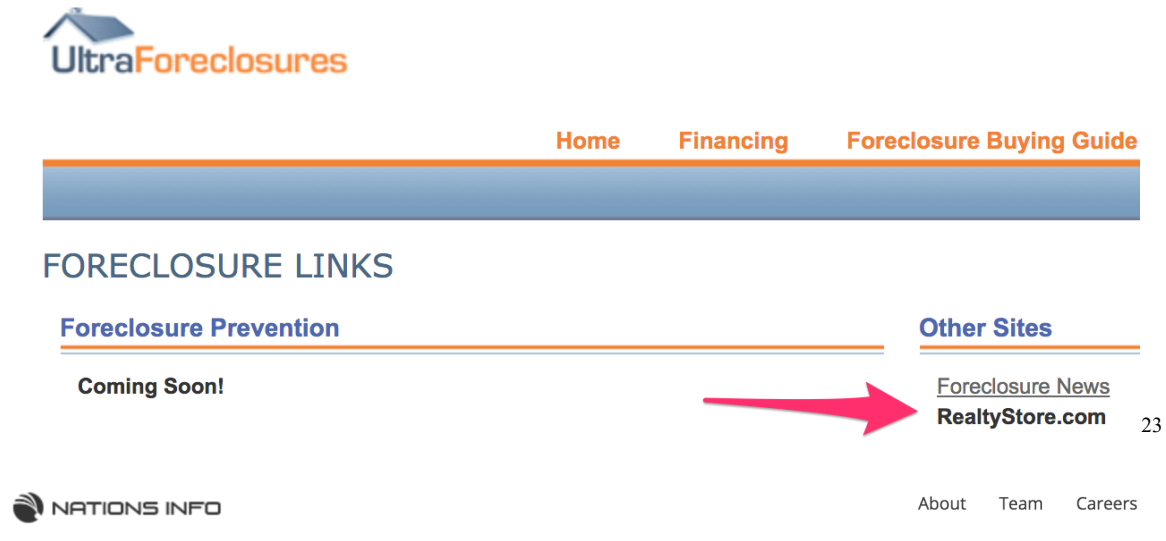
²⁰ <https://www.foreclosurefortunes.net/terms-of-use.html>

²¹ RentBeforeOwning.com is identified as being owned by Nations Info on <http://www.nationsinfocorp.com/>

²² <https://www.rentbeforeowning.com/terms-of-use.html>

and UltraForeclosures.com is a clone website of RentBeforeOwning.com, a site owned and managed by Nations Corp.

39. In addition, UltraForeclosures.com leads consumers with a direct link to RealtyStore.com, another website owned/controlled by Nations Info:



Platform Utilization

These helpful products and services leverage our platform to fulfill unique needs and add value



The broadest selection of real estate listings in the industry, including distressed property, nationwide

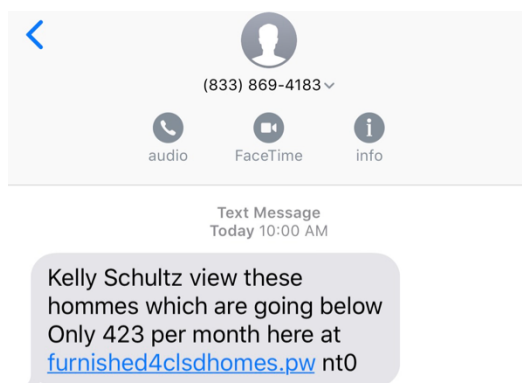


A low-cost, turn-key program for real estate agents to reach highly motivated home buyers and sellers

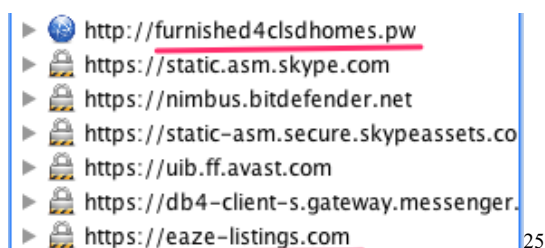
40. On March 24, 2019 at 10:00 AM, Schultz received a second autodialed text message on her cellular phone from, or on behalf of, Nations Info, this time supposedly from the phone number 833-869-4183:

²³ <https://www.ultraforeclosures.com/foreclosure-links>

²⁴ <http://www.nationsinfocorp.com>



41. Clicking on furnished4clsdhomes.pw routes directly to https://eaze-listings.com/img/?aff_id=10&source=ED-CVSeeps-1-4-5:



42. At the eaze-listings.com domain, the consumer is provided with a short survey regarding rent-to-own properties. When the survey is completed, the consumer is taken directly to ViewForeclosureHomes.com—just like the first text message.

43. Plaintiff has never had a relationship with Nations Info and has never provided Nations Info express written consent to contact her.

44. Plaintiff Schultz was not looking for a rental property or rent-to-own opportunity at the time she was called.

45. The unauthorized text messages sent by Nations Info, as alleged herein, have harmed Plaintiff in the form of annoyance, nuisance, and invasions of privacy. They have also disturbed Schultz's use and enjoyment of her cellular phone, in addition to the wear and tear on the phones' hardware (including the phones' battery) and the consumption of memory on the phone. Text messages ring or vibrate alerting the phone user of their receipt. These messages

²⁵ Screenshot from Charles, a link tracking program

interfere with and interrupt a user's experience, resulting in further annoyance and invasions of privacy.

46. In addition, Defendant violated the DNC by sending 2 solicitation text messages within a 1-year period to Plaintiff's phone number, which had been registered on the Do Not Call registry for at least 30 days.

47. Seeking redress for these injuries, Schultz, on behalf of herself and two Classes of similarly situated individuals, brings suit under the TCPA which prohibits unsolicited autodialed text messages to cellular telephones, including solicitation text messages to a phone number protected by the DNC.

CLASS ALLEGATIONS

Class Treatment Is Appropriate for Plaintiff's TCPA Claims

48. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23(b)(2) and Rule 23(b)(3) on behalf of herself and all others similarly situated and seeks certification of the following Classes:

Autodialed No Consent Class: All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant (or an agent acting on behalf of Defendant) placed text message calls, (2) to the person's cellular telephone number, (3) using the text messaging platform Defendant used to place text message calls to Plaintiff, (4) for whom Defendant claims it obtained prior express consent in the same manner as Defendant claims it supposedly obtained prior express consent to text message Plaintiff.

Do Not Call Registry Class: All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant (or an agent acting on behalf of Defendant) texted more than one time; (2) within any 12-month period (3) where the person's telephone number had been listed on the DNC for at least thirty days; (4) for the same reason that Defendant texted Plaintiff; and (5) for whom Defendant claims it obtained prior express consent in the same manner as Defendant claims it supposedly obtained prior express consent to text message Plaintiff.

49. The following individuals are excluded from the Classes: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, its subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3)

1 Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion
2 from the Classes; (5) the legal representatives, successors or assigns of any such excluded
3 persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated
4 and/or released. Plaintiff anticipates the need to amend the Class definition following appropriate
5 discovery.

6 50. **Numerosity:** On information and belief, there are hundreds if not thousands of
7 members of the Classes such that joinder of all members is impracticable.

8 51. **Commonality and Predominance:** There are many questions of law and fact
9 common to the claims of Plaintiff and the Classes, and those questions predominate over any
10 questions that may affect individual members of the Classes. Common questions for the Classes
11 include, but are not necessarily limited to the following:

- 12 (a) whether Defendant used an automatic telephone dialing system to send text
13 messages to Plaintiff and the members of the Autodialed No Consent Class;
- 14 (b) whether Defendant sent unsolicited text messages to phone numbers
15 registered on the DNC;
- 16 (c) whether Defendant's conduct constitutes a violation of the TCPA;
- 17 (d) whether Defendant's system is an ATDS, and
- 18 (e) whether members of the Classes are entitled to treble damages based on the
19 willfulness of Defendant's conduct.

20 52. **Adequate Representation:** Plaintiff will fairly and adequately represent and
21 protect the interests of the Classes and has retained counsel competent and experienced in class
22 actions. Plaintiff has no interests antagonistic to those of the Classes, and Defendant has no
23 defenses unique to Plaintiff. Plaintiff and her counsel are committed to vigorously prosecuting
24 this action on behalf of the members of the Classes and have the financial resources to do so.
25 Neither Plaintiff nor her counsel has any interest adverse to the Classes.

26 53. **Appropriateness:** This class action is also appropriate for certification because
27 Defendant has acted or refused to act on grounds generally applicable to the Classes and as a
28

1 whole thereby requiring the Court's imposition of uniform relief to ensure compatible standards
2 of conduct toward the members of the Classes and making final class-wide injunctive relief
3 appropriate. Defendant's business practices apply to and affect the members of the Classes
4 uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with
5 respect to the Classes, not on facts or law applicable only to Plaintiff. Additionally, the damages
6 suffered by individual members of the Classes will likely be small relative to the burden and
7 expense of individual prosecution of the complex litigation necessitated by Defendant's actions.
8 Thus, it would be virtually impossible for the members of the Classes to obtain effective relief
9 from Defendant's misconduct on an individual basis. A class action provides the benefits of
10 single adjudication, economies of scale, and comprehensive supervision by a single court.

11 **FIRST CAUSE OF ACTION**
12 **Telephone Consumer Protection Act**
13 **(Violations of 47 U.S.C. § 227, et. seq.)**
14 **(On Behalf of Plaintiff and the Autodial No Consent Class)**

15 54. Plaintiff repeats and realleges paragraphs 1 through 52 of this Complaint and
16 incorporates them by reference.

17 55. Defendant and/or its agents sent unwanted solicitation text messages to cellular
18 telephone numbers belonging to Plaintiff and the other members of the Autodialed No Consent
19 Class using an autodialer.

20 56. These solicitation text messages were sent *en masse* without the consent of the
21 Plaintiff and the other members of the Autodialed No Consent Class to receive such solicitation
22 text messages.

23 57. The text messages were sent using an automatic telephone dialing system
24 ("ATDS"). Defendant used technology that had the capacity to randomly generate and store
25 numbers and dial them from a pre-loaded list. The equipment shared characteristics of a
26 predictive dialer and allowed for the sending of text messages *en masse* without sufficient human
27 intervention. Further discovery is needed regarding Defendant's system as only defendant
28 possesses such information.

58. Defendant failed to obtain prior express consent of any kind. There was no oral consent, and Defendant failed to obtain any written consent required under the TCPA or otherwise.

59. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a result of Defendant's conduct, Plaintiff and the other members of the Autodialed No Consent Class are each entitled to between \$500 and \$1,500 for each and every text message.

SECOND CAUSE OF ACTION
Telephone Consumer Protection Act
(Violation of 47 U.S.C. § 227, et. seq.)
(On Behalf of Plaintiff and the Do Not Call Registry Class)

60. Plaintiff repeats and realleges the paragraphs 1 through 52 of this Complaint and incorporates them by reference.

61. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

62. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) and (d) "are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers."²⁶

63. 47 C.F.R. § 64.1200(d) further provides that "[n]o person or entity shall initiate any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity."

64. Any "person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may" may bring a private action based on a violation of said regulations, which were

²⁶ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf

1 promulgated to protect telephone subscribers' privacy rights to avoid receiving telephone
2 solicitations to which they object. 47 U.S.C. § 227(c).

3 65. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated,
4 telephone solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry
5 Class members who registered their respective telephone numbers on the National Do Not Call
6 Registry, a listing of persons who do not wish to receive telephone solicitations that is
7 maintained by the federal government, for at least 30 days.

8 66. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call
9 Registry Class received more than one phone call/text message in a 12-month period by or on
10 behalf of Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of
11 Defendant's conduct as alleged herein, Plaintiff and the Do Not Call Registry Class suffered
12 actual damages and are entitled to between \$500 an \$1,500 per violation.

13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff Nations Info, individually and on behalf of the Classes, prays
15 for the following relief:

- 16 a) An order certifying the Classes as defined above, and appointing Plaintiff as the
17 representative of the Classes and her attorneys as Class Counsel;
- 18 b) An award of actual and/or statutory damages and costs to be paid into a common fund for
19 the benefit of the Classes;
- 20 c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- 21 d) An injunction requiring Defendant to cease all unsolicited texting activity, and to
22 otherwise protect the interests of the Classes; and
- 23 e) Such further and other relief as the Court deems just and proper.
- 24

25 JURY DEMAND

26 Plaintiff Kelly Schultz requests a jury trial.

Respectfully Submitted,

KELLY SCHULTZ, individually and on behalf of
those similarly situated individuals

Dated: October 27, 2019

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Attorneys for Plaintiff and the putative Classes

**Pro Hac Vice motion forthcoming*